

IN SENATE AND HOUSE

Much Business Disposed of at the Morning Session.

FRUIT TREE INSPECTION

BENNING'S BILL TAKEN UP, AMENDED AND PASSED.

Redd's Measure to Prevent Explorations in Southeastern Utah Without a Permit—The Senate Refers Seven House Bills to Committees For Consideration.

Yesterday's session of the house of representatives lasted about two hours and a half, and within that time six bills were passed and several other measures were either referred to committees or recommended for passage. One bill was rejected. At 11:50 the house adjourned till Monday morning at 10 o'clock. After the taking of the senatorial ballot in joint assembly, the representatives and senators hurriedly left the building for the Oregon Short Line depot, to board the special train which bore them to Logan to visit the Agricultural college.

Shepard's house bill No. 83, to make deeds of trust foreclose the same as mortgages, was taken up and passed by a vote of 26 yeas to 1 no, eighteen members being absent on roll-call.

Senate bill No. 33, to make abstracts of title admissible as prima facie evidence in all the courts of the state, was passed by a unanimous vote, and house bill No. 57, relating to the same subject, was rejected.

House bill No. 102, by Benning, was called up, amended and passed by a vote of 23 yeas. The bill amends the fruit tree inspection law by making it obligatory for boards of county commissioners in counties having 5,000 or more growing fruit trees to appoint an inspector from a list of nominations made by the state board of horticulture. In counties having a population of 10,000 or over, inspectors are to be appointed by the state board of horticulture.

The bill also provides for the proper enforcement of the horticultural law. The bill also provides for the proper enforcement of the horticultural law.

House bill No. 104, by Shepard, to require the holding of nine terms of the supreme court annually, was called up for consideration. The author of the bill amended it by providing for four terms, commencing on the second Monday of January, April, June and September. The bill was passed by a unanimous vote of 27 yeas to 1 no, eighteen members being absent.

The substitute for house bill No. 122, by Stewart, by amendment, was also passed. The purpose of the bill is to empower city councils to require railroad companies to erect and maintain gates at any and all crossings and to compel the removal of unused or abandoned tracks. The original clause requiring the erection of viaducts was stricken out of the bill.

House bill No. 128, by Redd, was also passed without opposition. The bill makes it a misdemeanor for any person to make explorations in southeastern Utah for asphalt or other petroleum products for any purpose whatever unless provided with a permit from the governor. In which case the results of the exploration must be deposited with the state museum or the University of Utah, and not used for speculation or pecuniary profit.

MISCELLANEOUS BUSINESS.

The following senate bills were referred to the proper committees: No. 78, by Howell, relating to state institutions drawing their biennial appropriations.

No. 80, by Smoot, relating to the expense of assessing and collecting taxes in cities and towns.

House bill No. 20, by Fullmer, relating to the transmission of election returns, was recommended to the committee on elections.

Enlarged copies of the following measures were signed by the speaker and the chief clerk, and transmitted to the senate for signature: House bill No. 24, to authorize any railroad company to purchase the non-competing line of another within the state, whether or not either are incorporated under the laws of Utah.

House joint memorial No. 8, praying congress to reimburse citizens of Utah for services rendered and losses sustained in the Spanish war of a third of a century ago.

The state board of examiners reported the allowance of the claim of Salt Lake City for the sum of \$700 for balance due from the territory of Utah for half the cost of constructing the reservoir and water system for the capital grounds. The matter was referred to the committee on claims and public accounts.

The judiciary committee recommended passage of house bill No. 166, to extend to thirty days the time for a defendant personally served with a summons outside the state for answering, and house bill No. 167, relating to dismissal of appeals in the district court.

On recommendation of the judiciary committee, house bill No. 169, by Jackson, to provide for decent internment of the remains of any indigent, but honorably discharged, United States soldier or marine, at expense of counties, was rejected, for the reason that the United States statutes make ample provision for such burials and suitable marking of graves.

The house then adjourned.

IN THE SENATE.

Seven House Bills Referred to the Proper Committees.

Although the senate had decided to come together at 10:30, in order to clear the table before going to the Logan excursion, the senators were tardy in arriving, and not until half after 11 that a quorum was secured. Very little business was transacted in the fifteen minutes of the session.

Seven house bills came down and were referred to committees, as follows: House bill 127, creating the office of forestry warden. Forests and forestry. House bill 130, relating to the adulteration of vinegar. Public health.

Substitute for house bill 99, concerning real estate titles. Judiciary.

House bill 131, relating to the foreclosure of mortgages. Public health.

Substitute for house bill 119, abolishing the board of public works. Municipal corporations.

Substitute for house bill 122, relating to the powers of city councils. Municipal corporations.

House bill 164, regarding the terms and sittings of the supreme court. Judiciary.

Two senate bills were returned as passed and were sent to the committee on engrossing and enrolled bills for engrossing. They were: Senate bill 47, creating a fish hatchery, and senate bill 33, making abstracts of title admissible as evidence in district courts.

A communication from the house announced that the substitute for house joint memorial No. 5, for the payment of veterans of the Black Hawk war, and house bill 124, authorizing the consolidation of railroads, had been signed by Speaker Roylance. President Nebeker affixed his signature to both measures.

On motion of Senator W. G. Nebeker, house bill No. 25, by Holmgren, creating a winter course at the Agricultural college, was reconsidered and referred to the committee on education.

The senate then, at 11:45, adjourned until 11 a. m. Monday.

CABLEGRAM FROM GEN. OTIS

LIEUT. SEAMAN OF THE UTAH ARTILLERY DOING WELL.

Private Peterson's Condition Is Good—Private Thoreson Returns to Duty—News at Fort Douglas.

Yesterday afternoon Governor Wells received a message from Senator Rawlins relative to the condition of the Utah boys wounded in the Manila engagement. The message read:

Cablegram just received from General Otis states Lieutenant Seaman, Utah artillery, Besh wound right leg, doing well. Corporal Andrew Peterson, B. Utah artillery, wounded right thigh, doing well. James Thoreson, Fourth cavalry, well and doing duty.

J. L. RAWLINS.

Fort Douglas Notes.

The garrison was startled at midnight Sunday night by a telephone message to the officer of the day, Lieutenant H. E. Wilson, that the morning papers would contain orders that would disrupt the peace and quietude of the regiment. The guards lost no time in communicating this news to the command in the companies, so that when reveille was sounded every soldier was ready to answer "here" and commence speculating on the companies to be selected for Honolulu. More than one company commander has indicated his desire for duty in Honolulu. Vancouver, Harrison and Spokane are considered excellent stations. Asenabole, Utah an excellent post, is a little chilly in winter. The regiment has been expecting that a part of it would be called upon to do duty in a cold climate from the fact that when a requisition was made upon the Q. M. D. for rain coats, buffalo overcoats were sent. Eight companies of the regiment remain in the United States with three companies and headquarters at Fort Douglas. Yet it is reported that General Shafter wants two companies and the headquarters at the Presidio of San Francisco. If custom is followed, the company commanders will select their stations according to rank. The inevitable has been expected and since it has come the regiment is congratulating itself for the stations given it.

The recruiting officer at Columbus barracks sent out fourteen recruits who arrived in the post Friday. They were assigned to companies D and G.

The following men have been detailed on special duty: Private John A. Harmon, company H, as school teacher; Private David H. Kenoly, company D, as clerk in the commissary, and Thomas Green as clerk in the adjutant's office.

Captain W. H. James has been granted an extension of one month to his leave.

Order Affecting the Twenty-fourth.

Washington, March 4.—It has been decided at the war department not to send the one field officer and four companies of the Twenty-fourth Infantry at Forts Douglas and Russell to Honolulu for the present, as proposed in yesterday's orders. The probability is that some other troops not yet selected will be sent to the island.

THE BOY BURGLARS.

They Will Be Arraigned in Police Court Monday.

The eight young boys of tender years who were arrested Friday night for stealing liquor from the cellar of the California Wine company, were given an examination by Assistant County Attorney Gunter, who will prepare complaints and cause them to be arraigned in police court at 2 p. m. Monday.

The boys, who range in age from 8 to 14 years, were very frank in confessing the crime. The apprehension was made through the confession of Ernest Fulmer, living at 27 South First West street, who was picked up by Police Officer Roberts for stealing boxes. He proved a star witness and gave away the names of the boys who were in the cellar when the liquor was stolen.

William Rhodes of 157 South First West street used ice prongs to break through the adobe wall of the wine cellar, and took out a keg of brandy, which they broke open with an axe. Much of the liquor spilled on the ground, but they saved some in cans and drank it. Willie Smith, who lives on the east side, between Second and Third South, and Will and Henry Robinson, living behind the Board of Trade building, said they pulled a keg of blackberry wine out of the cellar one Saturday night about a month ago.

Frank Mono, who also lives behind the Board of Trade, and has worked at the Kenyon, said he is the keg in Rhodes' house, but denied having helped steal it. He and his little brother, Alfred Mono, are held, however, for taking part in the burglary. The police say Mrs. Robinson locked the door when they went after the boys, and it is thought that she knew the liquor had been stolen. Johnny Maginetti, the youngest, and only 8 years of age, said he was not present when the liquor was stolen, but would have taken a hand had he been around.

In regard to the saddle stolen from D. C. Richardson, 255 West Fourth South street, the Fulmer and Smith boys said they stole it from the barn, but declared that the Frank Mono prompted them to the act and gave them \$3 for it. All of the boys are held in the city jail, except Maginetti, the 8-year-old, and Alfred Mono, 11 years of age, who were allowed to go home.

Manager Woolf of the California Wine company said that the keg of blackberry wine is worth \$19, and the domestic brandy, \$25. He had not observed the burglary of the storeroom until the matter was reported by the police.

Another Bad Boy.

Yesterday was reported a clever trick on the part of a boy 13 years of age, who obtained goods from William Wood's meat market and Beeley & Brown's store on Market Row, stating that he had been sent by a lady in the Constitution building who had an account with both firms. A second attempt to make a purchase aroused the suspicion of W. C. Bowring, who started off with the boy to the Constitution block to find the lady. At the archway next to McDonald's candy store the boy gave him the slip. Bowring failed to catch the boy the first time, but later he was apprehended, although not prosecuted, as the mother made good the amount, which was about \$4, at Beeley & Brown's.

He worked Bowring & Davis on Main street for about \$7 in goods the same way.

A Sugar Ward Case.

A stolen bicycle caused some commotion in Sugar House ward yesterday. The owner found it in possession of Will Fidler, a son of George Fidler, but this gentleman proved that he had come by it honestly from a boy named Irwin, who also declared he had bought it from a man. The Irwin boy was released on his own recognizance to appear in police court Monday, when the matter will be taken up.

Elegant Springs.

Pure spring water makes the best ice. The best is none too good. White Wagon, Tel. 48, Mountain Ice Company.

Ladies' 44 welts for \$2.50. Every pair of shoes will be slaughtered. Newman-Nott Shoe company, 31 Main.

Bamberger sells coal right.

QUESTION FOR A JURY

Ruling of Judge Hallett in the Parley's Conduit Case.

GRANTS ANOTHER TRIAL

MAY WINS FIRST ROUND IN CITY'S SUIT AGAINST HIM.

Damage Suit of Hoytsville Irrigation Co. vs. Ontario Co. Transferred to Federal Court—John and Dennis Winn, Fugitives From Justice, Arrested—Deaths of the Courts.

In the suit of Joseph W. Smith et al. vs. Salt Lake City, for payment for alleged additional work in the construction of the Parley's canyon aqueduct, Judge Moses Hallett of Denver filed an order yesterday in the United States circuit court granting the motion for a new trial before a jury. The case was heard in August last before E. J. Williams as referee, who found for the plaintiff in the sum of \$10,000. In December last Judge Hallett listened to the plaintiff's exceptions and objections to the referee's report, and now sustains the same. The costs that have accrued to date shall abide the event of the suit, and if the plaintiff shall at another trial recover no more than was allowed them at the last trial by the referee, all costs hereafter accruing shall be taxed to them. If doubt shall arise in the minds of counsel as to the point of the court to take order in the premises, as here suggested, authority for such action will be found in Robinson vs. Mutual Benefit Life Insurance company and in 16 Hatchcock, 194 Federal Cases 1936.

FROM STATE COURT.

Hoytsville Irrigation Company vs. Ontario Mining Company.

The case of the Hoytsville Irrigation company vs. the Ontario Silver Mining company, the Daily Mining company, the Anchor Mining company and the Silver King Mining company was yesterday filed in the federal court, having been transferred from the Third judicial district, Summit county, in this case the plaintiff alleges that it is the owner of a canal near Hoytsville, and that water is obtained from the Weber river, one-half mile below where Silver creek enters it, forming a part of the water supply before the defendants located their mills on the creek. It is alleged that the water has been greatly injured for irrigation and culinary purposes by debris and poisonous substances thrown into the creek from the mills. The plaintiff claims damages in the sum of \$20,000 and demands judgment for the same. The transfer to the federal court is made on the ground that one of the defendants, the Ontario Silver Mining company, has its principal place of business outside of the state of Utah.

JACK MAY WINS

The First Round in the City's Suit Against Him.

In the case of Salt Lake City against John I. May, formerly treasurer of Salt Lake City, and his bondsmen, which was argued on demurrer to the answer a couple of weeks ago, Judge Cherry yesterday handed down his decision sustaining the demurrer.

The suit was brought against May and his bondsmen to recover \$10,000 city funds which Mr. May had deposited in the Bank of Salt Lake, and which was lost by the failure of the bank.

In the answer it was set up that neither May nor his bondsmen were liable for money lost in that way, and that the bondsmen were only liable in case that May had fraudulently gotten away with the funds. This was demurred to, but Judge Cherry overruled the demurrer, holding that the defendants should be given a chance to prove their allegations, and that the case should go to trial.

Fugitives Arrested.

A telegram was received at the United States marshal's office yesterday from United States Marshal Haddell of Wyoming, stating that he was on his way to Salt Lake City, having in custody John and Dennis Winn, who were recently captured in Wyoming a hundred miles from the railroad. He came over the Union Pacific on No. 1, which was due here last night. The Wims were held by the United States grand jury under bonds to appear before the federal court on the charge of stealing government supplies from the Indian reservation near Price. They failed to appear and jumped their bonds.

An Unsatisfied Judgment.

United States Marshal Glen Miller filed a report in the federal court yesterday, describing an unsatisfactory attempt to collect a judgment of \$1,995 given in May, 1937, in favor of William Eckman et al. against the Societe Anonyme des Mines de Leinster. He states that Giovanni Lavagnino, the manager of the company, declined to make any payment of the judgment and refused to listen to the reading of the execution, even running away from the marshal. Mr. Miller states that he was unable to find any property upon which to levy.

Special Master Lewis' Report.

Judge Marshall yesterday confirmed the second report of S. H. Lewis, master in chancery, in the case of Leon E. Goldberg et al. vs. Nathan Tanner et al. The amount realized from the sale made under the decree of the court was insufficient to pay the amount of the decree, with interest and costs of suit, property by the master, and there is still due \$5,745.45. The court finds the defendant, Nathan Tanner, Jr., personally liable therefor, and compels him and the defendants to be added to recover said amount from him.

McGillivray vs. Skews.

The suit of William McGillivray against Clara E. Skews to recover the balance of a judgment of \$1,000 on Third South street, was partly tried before Judge Hiles yesterday, with Messrs. Krebs & Hoppach appearing for the plaintiff and Mr. C. O. Whittemore for the defendant. The trial was in progress when court adjourned until today.

District Court Orders.

Taylor & Brunton Ore Sampling company vs. Dalton & Lark Gold Mining company; demurrer sustained and order of sale to amend.

C. J. Bang et al. vs. C. M. Hansen; motion to dismiss appeal overruled. D. L. Davis vs. C. M. Hansen; same order.

The Commercial National bank vs. J. G. Hedges et al.; judgment for plaintiff by default, as requested.

W. T. Brudwell vs. George R. Cassiday et al.; dismissed.

George Saville vs. William Burrows et al.; decree entered quieting title in the plaintiff.

Salt Lake county et al. vs. Wells, Fargo & Co.; demurrer overruled and order of sale to amend.

Elizabeth Meads et al. vs. Margaret H. M. Rasmussen; demurrer overruled and fifteen days allowed to answer.

Probate Rulings.

Estate of Samuel M. James, deceased; order of final distribution made.

Estate of Zachary Cheney, deceased; sale of personal property approved and order of sale of real estate made.

Estate of Robert Delighton, deceased; order of final distribution made.

Estate and guardianship of John W. Reed et al., minors; sale of personal property approved.

Miscellaneous Notes.

The Bank of Commerce yesterday

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Made from pure cream of tartar.

Safeguards the food against alum.

Alum baking powders are the greatest enemies to health of the present day.

ROYAL BAKING POWDER CO., NEW YORK.

aside, with directions for a trial at the next term to a jury in open court.

If the plaintiff should recover more than was allowed to them by the referee at the second trial, they will be entitled to all their costs. If less is recovered, then no more than was allowed by the referee, the costs henceforth accruing will be taxed to them.

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